

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance

AGENDA ITEM: 6 – J (2)

DATE: October 2-4, 2018

SUBJECT

BOR Policy 5:6 – Student FICA Exemption Revisions (First and Final Reading)

CONTROLLING STATUTE, RULE, OR POLICY

None

BACKGROUND / DISCUSSION

In an attempt to transition the BOR policies into the new format, BOR Policy 5:6 has been updated to include the purpose of the policy, definitions, and put in the new format. The policy changes were reviewed by the Business Affairs Council in September 2018.

IMPACT AND RECOMMENDATIONS

There are no substantial changes to the policy.

ATTACHMENTS

Attachment I – BOR Policy 5:6 – Student FICA Exemption

DRAFT MOTION 20181002_6-J(2):

I move to (1) waive the two-reading requirement of By-Laws Section 5.5.1, and (2) approve the first and final reading of BOR Policy 5:6 – Student FICA Exemption as shown in Attachment I.

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Student FICA Exemption

NUMBER: 5:6

A. PURPOSE

To clarify student eligibility for the FICA tax exemption.

B. DEFINITIONS

1. Federal Insurance Contribution Act (FICA): FICA is the federal program that funds Social Security retirement and Medicare benefits.

C. POLICY

1. Preamble

IRS regulations (31.3121(b)(10) of the Federal Insurance Contributions Act (FICA) and Revenue Procedure 2005-11) provides an exemption from ~~Federal Insurance Contributions Act (FICA)~~ contributions for students employed by a university that are enrolled and regularly attending classes at the school. To qualify for the exemption, the educational aspect of the relationship between the student employee and the employer, as compared to the employment aspect, must be predominant.

2. 1. Eligibility

1.1. 1) — Students who are working that are not full-time employees, based on standard employee definitions may be eligible for the exemption. Student employees that must be licensed, are considered professional employees, or that are receiving employee benefits, are not disqualified, although these criteria should be considered when looking at all the facts and circumstances in determining the predominant aspect of the relationship.

1.2. 2) — The predominant aspect of the relationship must be that the student is regularly attending classes at the school in pursuit of a course of study. This determination must be made each academic term. The class load and workload must be considered together to determine which is predominant.

~~1.3. 3)~~ — A relevant factor in evaluating the student’s course load is the load relative to a full-time course workload at the school. This determination is made based on the regular definitions and practices of the school.

~~1.4. 4)~~ — A relevant factor in evaluating the service or work relationship is the employee’s work schedule and the number of hours worked per week. As the number of hours approach 40, the likelihood is that the service aspect is predominant.

~~3.~~ 2. **Course Load Status For Determining FICA Exemptions**

~~2.1. 1)~~ — An undergraduate student must be actively enrolled in the following number of credits to be considered for the FICA exemption:

Fall and Spring	9 Credit Hours
Summer	5 Credit Hours

~~2.2. 2)~~ — A graduate student must be actively enrolled in the following number of credits to be considered for the FICA exemption:

Fall and Spring	5 Credit Hours
Summer	3 Credit Hours

~~4.~~ 3. **Payroll Operation**

~~3.1. 1)~~ — The student must be enrolled in the minimum number of credits at the start of the term to be eligible for the FICA exemption. If a student is not enrolled for the minimum numbers of hours for the academic term, they would not be exempted from FICA.

~~3.2. 2)~~ — If the student subsequently enrolls for the minimum number of hours after a payroll is run and becomes eligible for the FICA exemption, corrections cannot be made to previous payrolls.

FORMS / APPENDICES:

None

SOURCE:

BOR, April 2015, _____.